

# STATE OF DELAWARE PUBLIC SERVICE COMMISSION

## APPLICATION FOR AN ELECTRIC SUPPLIER CERTIFICATE

### **26 Del. Admin. C. §3001 – Rules for Certification and Regulation of Electric Suppliers**

#### 2.0 Certification of Electric Suppliers

2.1 All Electric Suppliers must obtain an Electric Supplier Certificate from the Commission to sell electric supply service to or arrange the purchase on behalf of Retail Electric Customers prior to offering contracts to Customers or commencing service.

2.1.1 Certification Requirement. All Electric Suppliers shall file with the Commission an original and ten (10) copies of an Application for an Electric Supplier Certificate. Such application shall contain all the information and exhibits hereinafter required and may contain such additional information as the Applicant deems appropriate to demonstrate to the Commission that it possesses the technical, financial, managerial and operational ability to adequately serve the public.

#### 2.3 Application Fee.

A non-refundable application fee of \$750 shall be submitted with the application for Certification.

#### 2.4 Incomplete or Abandoned Applications.

Applications that do not include the necessary fees, supporting documentation or information may be rejected. The Commission Staff will provide the Applicant with a list of deficiencies and the Applicant will be given time to provide the necessary information to complete its certification. However, an incomplete or abandoned application will be closed four (4) months after the filing date, unless such time frame is extended by the Commission.

#### 10.0 Other General Rules

10.1 Proprietary Information. Under Delaware's Freedom of Information Act, 29 Del. C. ch. 100, all information filed with the Commission is considered of public record unless it contains "trade secrets and commercial or financial information obtained from a person which is of a privileged or confidential nature." 29 Del. C. §10002(d)(2). To qualify as a non-public record under this exemption, materials received by the Commission must be clearly and conspicuously marked on the title page and on every page containing the sensitive information as "proprietary" or "confidential" or words of similar effect. The Commission shall presumptively deem all information so designated to be exempt from public record status. However, upon receipt of a request for access to information designated proprietary or confidential, the Commission may review the appropriateness of such designation and may determine to release the information requested. Prior to such release, the Commission shall provide the entity which submitted the information with reasonable notice and an opportunity to show why the information should not be released.

**REFER TO 26 Del. Admin. C. § 3001 FOR SPECIFIC INFORMATION REQUIRED. UNLESS OTHERWISE NOTED, CAPITALIZED TERMS SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN 26 Del. C. §1001 and 26 Del. Admin. C. §3001. COMMISSION STAFF MAY REQUEST ADDITIONAL INFORMATION IN ORDER TO COMPLETE THE PROCESSING OF YOUR APPLICATION.**

<b><u>INFORMATION REQUIRED FROM ALL APPLICANTS</u></b>		
1	Authority to Do Business in Delaware: [Section 2.1.1.1]	Required information is provided in Exhibit ____.
2	Resident Agent: [Section 2.1.1.2]	
3	Performance Bonds: [Section 2.1.1.3]	<input type="checkbox"/> Required information is provided in Exhibit ____.  <input type="checkbox"/> Performance bond or guarantee not required.
4	Compliance with Regional Requirements: [Section 2.1.1.4]	<input type="checkbox"/> Proof of PJM member ship is provided in Exhibit ____.  <input type="checkbox"/> Applicant agrees to only work with an entity that complies with PJM's requirements and is a Certified Electric Supplier in Delaware. (Brokers Only)
5	Financial, Operational, Managerial and Technical Ability. Each Applicant shall be required to present substantial evidence supporting their financial, operational, managerial and technical ability to render service within the State of Delaware. Such evidence shall include, but is not limited to: [Section 2.1.1.5]	
5(a)	Certified Financial Statements or other indicia of financial capability [Section 2.1.1.5.1]	Required information is provided in Exhibit ____.
5(b)	Brief description of the nature of business being conducted, including types of customers to be served, services provided and geographic area in which services are to be provided. [Section 2.1.1.5.2]	Description:  Types of customers <input type="checkbox"/> Residential <input type="checkbox"/> Small Commercial <input type="checkbox"/> Large Commercial <input type="checkbox"/> Industrial  Geographic area <input type="checkbox"/> Delmarva Power & Light Service Co. Service Territory <input type="checkbox"/> Delaware Electric Cooperative Service Territory
5(c)	List of states presently selling electric supply/brokering services and list of states with applications pending: [Section 2.1.1.5.3]	State ____ Type _____ License No. _____  State ____ Type _____ License No. _____  <p style="text-align: center;"><b>or</b></p> <input type="checkbox"/> List provided in Exhibit _____

5(d)	List of states in which Applicant has been denied approval and/or has had authority revoked: [Section 2.1.1.5.4]	State _____ Date _____  State _____ Date _____  ( ) Applicant has never been denied or revoked
5(e)	Relevant operational experience of each principal officer responsible for Delaware operations. [Section 2.1.1.5.5]	Required information is provided in Exhibit ____.
5(f)	A copy of FERC approval as a Marketer or date and docket number of the application to FERC. [Section 2.1.1.5.6]	( ) Copy of FERC approval is provided in Exhibit ____.  ( ) The date and docket number of application: _____
5(g)	Applicant must secure a bond with corporate surety licensed to do business in Delaware guaranteeing the repayment of all customer deposits and advances upon the termination of service. [Section 2.1.1.5.7]	Does the Applicant require deposits, advance payment, prepayments, financial guarantees or the like from customers? ( ) Yes ( ) No (If yes, Applicant shall include bond in the appropriate amount.)  Required information is provided in Exhibit ____.
5(h)	The Applicant shall disclose whether the entity or any of its affiliated interests has filed for bankruptcy in the past 24 months. [Section 2.1.1.5.9.10]	( ) See Exhibit ____ for detailed statement of all bankruptcy proceedings for the past 24 months of the applicant or any affiliated interests.  ( ) Neither Applicant nor affiliated interests has filed bankruptcy in the past 24 months.
5(i)	Any other information [Section 2.1.1.5.9.11]	( ) Other supporting material for this application is provided in Exhibit(s) _____.  ( ) No other supporting material is provided.
6	Verification of Application [Section 2.1.1.6] (See Attachment A for an example)	( ) Verification is provided in Exhibit ____.

7	Consent to the Jurisdiction. <i>[Section 2.1.1.7]</i>	BY (signature):   TYPED/PRINTED NAME:   TITLE:  
8	Other Requirements <i>[Section 2.1.1.8]</i>	
8(a)	Legal name as well as name under which Applicant proposed to do business in Delaware: <i>[Section 2.1.1.8.1]</i> <b>(Registration of Trade, Business &amp; Fictitious Name Certificate for each of the three Delaware counties must be included for any d/b/a.)</b>	
8(b)	State of incorporation, business address and address of the principal officer: <i>[Section 2.1.1.8.2]</i>	
8(c)	Name, title and telephone number of a regulatory contact person: <i>[Section 2.1.1.8.3]</i> <b>(This person will ordinarily be the initial point of contact for resolving complaints filed with the Commission. The Commission will also send any correspondence to this person.)</b>	
8(d)	A toll-free telephone number of customer service department: <i>[Section 2.1.1.8.4]</i> <b>(This number will be listed on the Commission's website as a resource for existing and potential customers of the Applicant.)</b>	
8(e)	Description of the Applicant's experience in the energy market and a brief description of the services it plans to offer in Delaware and the type of customers it plans to serve. <i>[Section 2.1.1.8.5]</i>	Description:   Types of customers ( ) Residential ( ) Small Commercial ( ) Large Commercial ( ) Industrial

8(f)	Statement detailing any criminal activities of which the Applicant or any of its affiliated interests has been charged or convicted, or which the principal or corporate officers of the Applicant or any of its affiliated interests has been charged or convicted. [Section 2.1.1.8.6]	( ) See Exhibit ____ for detailed statement of criminal activities.  ( ) Neither Applicant nor affiliated interests have been charge or convicted of any criminal activities.
9	Waiver of Certification Requirements. [Section 2.5] <b>(Only applicable to Applicants requesting a waiver)</b>	( ) Applicant requests waiver of the requirements in Section(s) ____ for the following reason(s):
10	Tax identification number	

**ADDITIONAL INFORMATION NOT REQUIRED FROM BROKERS**

1	All new Applicants, <b>except Brokers</b> , shall demonstrate in their applications that they possess a minimum of \$100,000 of assets in excess of encumbrances or a minimum of \$100,000 in cash, cash equivalents, or financial instruments that are reasonably liquid and readily available to meet their costs of providing electricity to Customers or any combination thereof. [Section 2.1.1.5.8]	( ) Cash or cash equivalent {2.1.1.5.9.1} ( ) Certificate of deposit {2.1.1.5.9.2} ( ) Stock proceeds or stockholder equity {2.1.1.5.9.3} ( ) Letter of credit {2.1.1.5.9.4} ( ) Line of credit {2.1.1.5.9.5} ( ) Loan {2.1.1.5.9.6} ( ) Guarantee by corporation, co-partnership, or other person {2.1.1.5.9.7} ( ) Guarantee by subsidiary, affiliate or corporation holding controlling interests {2.1.1.5.9.8} ( ) Identifiable assets {2.1.1.5.9.9}  Required information is provided in Exhibit(s) ____.
2	Each Applicant, <b>except Brokers</b> , shall publish notice of the filing of the application in two (2) newspapers having general circulation throughout the State in a form to be prescribed by the Commission. [Section 2.2]	The form of notice will be forwarded to the Applicant upon receipt of the Application for an Electric Supplier Certificate.

**ADDITIONAL INFORMATION REQUIRED FROM APPLICANTS SERVING RESIDENTIAL AND SMALL COMMERCIAL CUSTOMERS**

<p>Contracts. At the time of the filing, the Applicant shall either provide its Standard Contract for Residential and Small Commercial Customer or a link to it on the Applicant's website. Such contract is subject to review by the Commission Staff and if Staff determines that such contract is not consistent with these Rules for Certification and Regulation of Electric Suppliers ("Rules"), then Staff shall have the authority to require changes in order to make consistent with these Rules or Electric Supplier faces revocation of its Electric Supplier Certificate by the Commission after a hearing. Such contract shall be in clear and plain language and include explicit terms and conditions which at a minimum contain the following <i>[Section 2.1.1.9]</i></p>	<p>Required information is provided in Exhibit(s) ____.</p>
<p>1</p>	<p>A clear statement of the duration of the contract. <i>[Section 2.1.1.9.1]</i></p>
<p>2</p>	<p>The price stated in cents per kWh or a clear and unambiguous statement of the precise mechanism or formula by which the price will be determined. <i>[Section 2.1.1.9.2]</i></p>
<p>3</p>	<p>A complete list of any other fees, including early termination penalties, late fees, and interest charges, which can be imposed on the customer, including but not limited to the magnitude of the fees and the specific conditions under which such fees can be imposed. <i>[Section 2.1.1.9.3]</i></p>
<p>4</p>	<p>A statement of the Electric Supplier's termination rights, which shall explain the specific conditions, under which the Electric Supplier may terminate service. At a minimum, the Electric Supplier shall provide the Residential or Small Commercial Customer with at least 30 days notice of termination of the contract and procedures to maintain ongoing service. <i>[Section 2.1.1.9.4]</i></p>
<p>5</p>	<p>The Electric Supplier's local or toll-free telephone number; address and web address, if applicable; and the Commission's address and telephone number. <i>[Section 2.1.1.9.5]</i></p>
<p>6</p>	<p>A statement informing the Residential or Small Commercial Customer that, because of relocation outside of their current EDC's service territory, they he/she may terminate his/her contract with his/her Electric Supplier with no termination fee upon a 30-day notice in writing to the Electric Supplier. <i>[Section 2.1.1.9.6]</i></p>
<p>7</p>	<p>A Residential or Small Commercial Customer has ten (10) calendar days from the day the EDC sends the confirmation letter to rescind his/her selection. <i>[Section 3.4]</i></p>

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**3.0 Post-Certification Requirements:**

- 3.1 Term of ESC. ESCs are valid until revoked by the Commission or abandoned by the Electric Supplier after the requisite notice to the Commission and to their customers.
- 3.2 Minimum Length of Electric Supply Service by Electric Supplier. For each Retail Electric Customer class, each Electric Supplier must offer Electric Supply Service to each of its Retail Electric Customers for a minimum period of one billing cycle.
- 3.3 Transfer or Abandonment of ESC. The transfer of an ESC is prohibited without express Commission Order. No Electric Supplier shall abandon Electric Supply Service within the State without 60 days written notice to the Commission, the affected Electric Distribution Companies, and its Retail Electric Customers.
- 3.4 Contracts and Revised Contracts. An Electric Supplier shall supply Electric Supply Service to a Residential or a Small Commercial Customer only by a standard contract containing the provisions described in Section 2.1.1.9, of these Rules. The contract must be signed or verifiable by some other means of authorization by the Residential or Small Commercial Customer. If an Electric Supplier offers a Retail Electric Customer a check, prize, or other incentive which requires a signature, that signature cannot be used as the contract signature. A Residential or Small Commercial Customer has ten (10) calendar days from the day the EDC sends the confirmation letter to rescind his/her selection. If the Electric Supplier makes substantive changes to its standard contract for Electric Supply Service to Residential or Small Commercial Customers, the Electric Supplier must notify the Commission Staff to allow for review and comment. If Staff determines that such contract is not consistent with these Rules, Commission Staff shall have the authority at any time to require changes to a standard contract for Residential or Small Commercial Customers.
- 3.5 Price Terms. Any price term shall not be inconsistent with pricing terms in a Residential or Small Commercial Customer's contract with their Electric Supplier. The Electric Supplier must provide thirty (30) days written notice to its Residential or Small Commercial Customer(s) of any price term changes.
- 3.6 Information that Must be Provided to a Customer by the Electric Supplier. The Electric Supplier must provide the Retail Electric Customer with a copy of its contract which includes the terms and conditions of service.
- 3.7 Customer Information. An Electric Supplier may request a list from an Electric Distribution Company which contains Retail Electric Customer's name, service address and mailing address. A Retail Electric Customer may elect to opt out of the list.
- 3.8 Marketing and Advertising.
  - 3.8.1 Pursuant to 26 Del. C. § 1012 (b) and as further defined in Section I of these Rules, all Electric Suppliers shall not solicit Retail Electric Customers by means of telemarketing where such telemarketing is prohibited by applicable laws and regulations.
  - 3.8.2 An Electric Supplier or its marketing or advertising agent shall not make misrepresentations or use deceptive practices in its direct solicitations, advertising or marketing materials.
  - 3.8.3 An Electric Supplier or its marketing or advertising agent must comply with all federal, state or local laws applicable to advertising or marketing products or services.
- 3.9 Reports to be Provided to the Commission. All Electric Suppliers shall provide such information concerning Delaware operations to the Commission as the Commission may from time to time request, including any reporting requirements contained herein. Information provided pursuant to this paragraph and designated "proprietary" or

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“confidential” shall be held in accordance with paragraph 1 in Section X of these Rules, and shall be afforded proprietary treatment subject to the provisions of the Rules, Commission regulations, and Delaware Law.

- 3.10 Fees and Assessments. Electric Suppliers must pay applicable fees and assessments under 26 Del. C. § 1012 (c) (2). Electric Suppliers must also file any applicable reports required under 26 Del. C. § 115 (e). The Electric Supplier, except Brokers, must also pay the Public Utilities Taxes pursuant to 30 Del. C. Chapter 55.
- 3.11 Record Retention.  
All Electric Suppliers will retain customer account records for a period of two (2) years.

#### 7.0 Disclosure of Fuel Resource Mix:

- 7.1 Each Electric Supplier, except Brokers, shall file a report with the Commission disclosing the aggregate proportions of fuel resource mix for the electricity supplied to its customers in Delaware for each quarter during the year. Such reports shall be filed by last date of the month succeeding each quarter. The reports shall include, but are not limited to:
- 7.1.1 The total number of Retail Electric Customers by each Retail Electric Customer class served during that quarter;
  - 7.1.2 The total amount of electricity (kWh or MWh) supplied to each Retail Electric Customer class; and,
  - 7.1.3 The fuel resource mix by percentage for each resource.
- 7.2 Each Electric Supplier shall also disclose the information under paragraph 7.1.3 to its Retail Electric Customers annually via bill inserts and each other quarter by providing information on the Retail Electric Customer's bill for that quarter directing the Retail Electric Customer to obtain the information on the Electric Supplier's website or by a telephone request. Each Electric Supplier must maintain and update the information in paragraph 7.1.3 as required by 26 **Del. C.** § 1012. Information reported under paragraph 7.1.3 may be utilized in any consumer education program developed in accordance with 26 **Del. C.** § 1014 (c).

#### 10.0 Other General Rules:

- 10.2 Failure to Comply with These Rules. The failure by any Electric Supplier to comply with these requirements and the requirements in other Sections of these Rules may result in penalties, including monetary assessments, suspension or revocation of the Electric Supplier's ESC, or other sanction as determined by the Commission.



**ATTACHMENT A**

**FORM OF SAMPLE VERIFICATION**

STATE<sup>1</sup> OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2014, personally came before me, the subscriber, a Notary Public in and for the state and county aforesaid, \_\_\_\_\_ [name of individual who is signing] as the \_\_\_\_\_ [authority of individual or title of individual who is signing, e.g., President, Vice President, Sole Member/Manager, Trustee, etc.] of \_\_\_\_\_ [name of company or entity that is filing], known to me personally to be such or having presented to me satisfactory evidence of identity, and acknowledged this document to be [his or her] act and deed and the act and deed of such \_\_\_\_\_ [type of filer, e.g. corporation, limited liability company, etc.], that the signature of such individual is in [his or her] own proper handwriting, and that the facts set forth in this \_\_\_\_\_ [type of filing, e.g., application, petition, etc.] are true and correct to the best of [his or her] knowledge, information, and belief.

The signor understands that the making of false statement(s) herein may be grounds for denying the application, petition, or other filing or, if later discovered, for revoking any authority or certification granted pursuant to the application, petition, or other filing. This application, petition, or other filing is subject to all applicable sections of the Delaware Code as may be amended from time to time relating to perjury, swearing falsely, or making false written statements.

\_\_\_\_\_  
Signature of individual  
Printed Name: \_\_\_\_\_

**SIGNED AND SWORN (OR AFFIRMED)** before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_ (name of individual who signed above).

**SEAL**

\_\_\_\_\_  
Signature of Delaware Notarial Officer

My Commission Expires:

\_\_\_\_\_  
Title (e.g., Notary Public)

\_\_\_\_\_, 20\_\_

<sup>1</sup> Or replace with "Commonwealth" here.